



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,114	12/01/2003	Adrian Meredith Sunter	IS-US030581	9931
22919 7590 04/19/2007 GLOBAL IP COUNSELORS, LLP 1233 20TH STREET, NW, SUITE 700 WASHINGTON, DC 20036-2680			EXAMINER WEEKS, GLORIA R	
			ART UNIT	PAPER NUMBER
			3721	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/19/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/724,114

Applicant(s)

SUNTER ET AL.

Examiner

Gloria R. Weeks

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8 is/are allowed.
- 6) ☒ Claim(s) 9-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

*Allowable Subject Matter*

1. Claims 1-8 are allowed.
2. The indicated allowability of claims 11, 15-18, 21 and 23 are withdrawn in view of the newly discovered reference(s) to Sandolo. Rejections based on the newly cited reference(s) follow.

*Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sandolo (USPN 5,361,560) in view of Kammler et al. (USPN 5,832,700).

In reference to claims 9-12, Sandolo discloses a flavoring system comprising: a measurer 10 for measuring a quantity of articles (column 3 lines 55-58); a flavoring apparatus 21A, 22A, 23A, 24A downstream of the measurer 10, wherein the quantity of flavoring is determined based on the quantity of articles measured (column 2 lines 6-9); a packager 14; and a controller (control valve) that controls the predetermined quantity of flavoring supplied by the flavoring apparatus, wherein the quantity of articles and flavoring is measured by a predetermined flow rate. Sandolo does not disclose a check measurer. Kammler et al. teaches a weighing and flavoring system comprising: a measurer 20 for measuring a quantity of articles (column 4 lines 22-26); a check measurer 17 downstream of the measurer 20 for weighing the articles; a

packager 11; and a control means 31 for controlling the predetermined quantity of articles supplied by the measurer based on the weight of the articles and packaging as measured by the check measurer 17. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the flavoring system of Sandolo to include a check measurer and control means, since column 1 lines 46-50 of Kammler et al. states that such a modification ensures that an exact quantity of flowable products are dispensed, and proper adjustments can be made to subsequent packages based on the determined weight of the mixture and the packaging.

5. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sandolo (USPN 5,361,560) in view of Kammler et al. (USPN 5,832,700) as applied to claim 9, and further in view of Parliament et al. (USPN 3,655,397).

Regarding claim 13, Sandolo discloses different types of flavoring (column 1 lines 67-68) dispensed from the flavoring apparatus. Parliament et al. teaches liquid flavoring (column 4 lines 50-51) having different concentrations (column 5 lines 24-56). It would have been obvious to one having ordinary skill in the art at the time of the invention to further modify the flavoring apparatus such that the predetermined flavoring supplied varies based on the type of flavoring supplied, since Parliament et al. suggests that different concentrations of flavoring are desirable.

6. Claims 14-18, 20-24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sandolo (USPN 5,690,283) in view of Kammler et al. (USPN 5,832,700).

With respect to claims 14-17, Sandolo discloses an apparatus comprising: a combinational weigher 13 (column 4 lines 22-30); an additive dispenser 46 including a hopper 35; a packaging machine (column 4 lines 47-49); a mixer including an Archimedean screw 38; and a controller 50 that controls the additive dispenser 46 in response to an output from the

Art Unit: 3721

weigher 18 of a quantity of articles supplied to the additive dispenser 46. Sandolo does not disclose a check weigher. Kammler et al. teaches an apparatus comprising: a packager 11; a check measurer 17 that monitors the combined weight of a package and a mixture; and a control means 31 for controlling the predetermined quantity of articles supplied to the packager 11 based on the weight of the package and mixture as measured by the check measurer 17. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the apparatus of Sandolo to include a check measurer and respective control means, since column 1 lines 46-50 of Kammler et al. states that such a modification ensures that an exact quantity of articles are dispensed, and proper adjustments can be made to subsequent packages based on the determined weight of the mixture and the packaging.

In reference to claims 18 and 23, Sandolo does not disclose a vertical form, fill and seal packaging machine. Kammler et al. teaches a vertical form, fill and seal packaging machine for wrapping the mixture of articles and additive that are dispensed from the apparatus. It would have been obvious to one having ordinary skill in the art at the time of the invention to replace the packaging machine of Sandolo to with a vertical form, fill and seal packaging machine, since column 1 lines 19-21 of Kammler et al. state that such a modification is well known in the art of packaging flowable product.

Regarding claims 20, 21, 24 and 26, Sandolo discloses a method comprising the steps: dispensing 34 a predetermined quantity 18 of foodstuff; supplying a flavoring 46 to the predetermined dispensed quantity of articles to produce a mixture 35, 38; packaging the mixture (column 4 lines 47-49); and adjusting 50 the quantity of additive supplied such that the mixture meets a predetermined requirement (column 2 lines 19-24). Sandolo does not disclose

Art Unit: 3721

monitoring the combined weight of the packaging and the mixture. Kammler et al. teaches a method comprising the steps: packaging 11 a mixture; and monitoring 31 that combined weight of a package and the mixture for the purpose of controlling the predetermined quantity of mixture supplied to the packager 11 based on the weight of the package and the mixture as monitored 17. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the method of Sandolo to include the step of monitoring the weight of the package and mixture, since column 1 lines 46-50 of Kammler et al. states that such a modification ensures that an exact quantity of articles are dispensed and packaged, and proper adjustments can be made to subsequent packages based on the determined weight of the mixture and the packaging.

7. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sandolo (USPN 5,690,283) in view of Kammler et al. (USPN 5,832,700) as applied to claim 14 above, and further in view of Bacon et al. (USPN 6,119,438).

Regarding claim 19, Sandolo discloses an apparatus having an additive dispenser including a bulk hopper 35, but does not disclose a gas transport. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the apparatus of Sandolo to include a gas transport, since column 6 lines 54-64 of Bacon et al. state that such a modification increases the velocity of each charge of additive from the dispenser and reduces lag of the product into the package.

8. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sandolo (USPN 5,690,283) in view of Kammler et al. (USPN 5,832,700) as applied to claims 14 and 20 above, and further in view of Dove et al. (USPN 6,953,004).

Art Unit: 3721

With respect to claim 25, Sandolo disclose a method of flavoring and packaging food, but does not disclose the food to specifically be potato chips. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the method of Sandolo to include the food item of potato chips, since Dove et al. teaches that it is well known in the art to flavor and package potato chips.

### ***Response to Arguments***

9. Applicant's arguments with respect to claims 9, 10, 12-14, 19, 20 and 22-26 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to attachment for notice of references cited and recommended for consideration based on their disclosure of limitations related to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R. Weeks whose telephone number is (571) 272-4473. The examiner can normally be reached on M-F 8am-4pm.

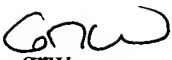
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3721

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199

  
grw  
April 5, 2007

Gloria R. Weeks  
Examiner  
Art Unit 3721

  
Rinaldi I. Rada  
Supervisory Patent Examiner  
Group 3700